

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

ANDREW J. SMITH

v.

STATE OF RHODE ISLAND

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C.A. No. 18-00621-WES

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

Pending before me for a report and recommendation are Petitioner's Motions to Proceed IFP (ECF Doc. Nos. 2 and 3). As explained in the Court's Text Order dated November 16, 2018, this action is properly treated as one seeking habeas corpus relief under 28 U.S.C. § 2254. Thus, the applicable filing fee is \$5.00. Petitioner's Inmate Account Statement for the period May 1, 2018 to October 31, 2018 shows periodic cash deposits and an unencumbered account balance of \$71.83 as of October 31, 2018. A \$200.00 cash deposit was made on October 5, 2018. Although Petitioner is incarcerated, he has not shown an inability to pay the \$5.00 required filing fee. Thus, I recommend that Petitioner's Motions to Proceed IFP (ECF Doc. Nos. 2 and 3) be DENIED and that Petitioner be ORDERED to pay the \$5.00 filing fee forthwith. I also recommend that this case be dismissed without prejudice, absent such payment.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within fourteen days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See United States v.

Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
November 30, 2018